

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

FREE SPEECH COALITION, INC., MG  
PREMIUM LTD, MG FREESITES LTD,  
WEBGROUP CZECH REPUBLIC, A.S.,  
NKL ASSOCIATES, S.R.O., SONESTA  
TECHNOLOGIES, S.R.O., SONESTA  
MEDIA, S.R.O., YELLOW PRODUCTION  
S.R.O., PAPER STREET MEDIA, LLC,  
NEPTUNE MEDIA, LLC, JANE DOE,  
MEDIAME SRL, MIDUS HOLDINGS,  
INC.,

Plaintiffs,

vs.

ANGELA COLMENERO, IN HER  
OFFICIAL CAPACITY AS INTERIM  
ATTORNEY GENERAL FOR THE STATE  
OF TEXAS,

Defendant.

Case No.: 1:23-cv-917

**DECLARATION OF ALISON BODEN IN SUPPORT OF PLAINTIFFS' MOTION FOR  
EXPEDITED PRELIMINARY INJUNCTION**

I, Alison Boden, declare as follows:

1. I provide this declaration in support of the Motion for Expedited Preliminary Injunction against enforcement of Act of June 12, 2023, Ch. 676, § 2 (H.B. 1181) Tex. Sess. Law Serv. (“the Act”). I am over eighteen years of age, and I have personal knowledge of the matters set forth in this Declaration; if called as a witness I could and would testify competently to these matters.

2. I am the Executive Director of the Free Speech Coalition (“FSC”), a plaintiff in this action. Before joining FSC, I was professionally involved in the adult entertainment industry for 20 years in various capacities, including as a small business owner, marketer, product manager, software developer, manager, and chief executive officer.

3. FSC is a not-for-profit trade association that assists filmmakers, producers, distributors, wholesalers, manufacturers, retailers, internet platforms, performers, writers, educators, and other creative artists located throughout North America in the exercise of their First Amendment rights and in the vigorous defense of those rights against censorship.

4. Founded in 1991, FSC currently represents hundreds of businesses and individuals involved in the production, distribution, sale, and presentation of constitutionally-protected and non-obscene materials that are disseminated to consenting adults via the internet.

5. In this action, FSC acts especially on behalf of its many members who are individual adult performers gravely concerned about the consequences of the Act, but who fear for their safety should they come forward publicly to challenge the Act in court.

6. As someone who has worked in adult entertainment industry for many years, I am aware that privacy is of paramount importance to individuals working within the industry. Most models or actors, and many individuals working behind the camera or in administrative positions, use pseudonyms to protect themselves against harassment, doxing, and general animosity targeted towards those who work within the adult industry. I have personally witnessed individuals whose lives have been nearly destroyed after being publicly connected to adult businesses. The same animosity and judgement is targeted towards those who watch, read, or listed to adult content.

Thus, although many people access adult material, few would want their friends, neighbors, or family to know.

7. The rights of FSC members and viewers of their material will be seriously infringed if the Court does not enjoin the Act. FSC members are currently responding to similar Acts recently enacted in other states in one of three ways: by (1) declining to abide by the statutory terms, thus risking lawsuits or civil penalties so long as the Act remains in effect; (2) diverting web traffic from IP addresses within the state passing such Acts, thus precluding online visitors from those States (to the extent possible); or (3) contracting (at great expense) the services of age-verification platforms to age-verify visitors to their site. When the Act goes into effect on September 1, 2023, they will have those same three options.

8. Option (1) outlined above puts FSC members at grave risk of lawsuits and civil penalties, including costs and attorney's fees. For many—including performers who operate as corporations, single-member LLCs, or sole proprietorships likely qualifying as “commercial entities” governed by the Act—even a single adverse judgment or statutory penalty could prove ruinous for the business.

9. Option (2) prevents FSC members from reaching Texas customers and prevents those customers from accessing non-obscene, constitutionally protected material. It also impedes the rights of residents living in border towns of neighboring states from receiving such material where their IP addresses mistakenly reflect presence in Texas.

10. Option (3) is unworkable for most FSC members. Because of the Act's vagueness, members are unsure what protocols constitute “a digital network that may be accessed by a commercial entity and that serves as proof of the identity of an individual” or a “commercially reasonable method [relying] on public or private transactional data to verify the age of an individual” sufficient to provide safe harbor under the Acts. Nor is it clear what it means under the Act to, “require an individual to present a government-issued identification.” To the best of my knowledge, Texas does not provide access to any government identity databases to third-party vendors, and FSC members do not wish to rely on the provision of services from such third-party

vendors to distribute constitutionally-protected materials to Texas adults. Likewise, verification via “any commercially reasonable method” is also unworkable and unclear where that method must rely on “public or private transactional data” to verify the user’s age. FSC members do not know what “commercially reasonable” means and do not know of third-party vendors using such transactional data to age-verify users.

11. Although there *are* providers of age-verification services in operation, the specifics of those services vary. What they share in common is an exorbitant price placed on the age-verifying entity. I used similarweb.com to research estimates for the number of US-based users that FSC members’ websites received in April 2023. The average is nearly 80,000,000 and the median is about 5,000,000. Then, I created the following table to identify the providers of which I am aware that verify a user’s identity via government identification documents and make their pricing public (most do not). I used my calculations to create an estimated cost for websites of various sizes.

Vendor	Website (pricing)	\$ per verification	100M verifications	5M verifications	100k verifications
Yoti	<a href="https://www.yoti.com/business/identity-verification/">https://www.yoti.com/business/identity-verification/</a>	£1.20	£120,000,000	£6,000,000	£120,000
Ondato	<a href="https://ondato.com/plans-pricing/">https://ondato.com/plans-pricing/</a>	€0.95	€95,005,180	€4,750,259	€95,005
Stripe	<a href="https://stripe.com/identity#pricing">https://stripe.com/identity#pricing</a>	\$1.50	\$150,000,000	\$7,500,000	\$150,000
Passbase	<a href="https://passbase.com/pricing">https://passbase.com/pricing</a>	\$2.00	\$200,000,980	\$10,000,049	\$200,001
veriff	<a href="https://www.veriff.com/plans">https://www.veriff.com/plans</a>	\$1.49	\$149,000,000	\$7,450,000	\$149,000
Trustmatic	<a href="https://trustmatic.com/pricing">https://trustmatic.com/pricing</a>	€0.40	\$40,000,000	\$2,000,000	\$40,000
Berbix	<a href="https://www.berbix.com/pricing">https://www.berbix.com/pricing</a>	\$0.99	\$99,000,000	\$4,950,000	\$99,000
Faceki	<a href="https://apps.faceki.com/pricing">https://apps.faceki.com/pricing</a>	\$0.62	\$62,000,000	\$3,100,000	\$62,000

12. Instead of website-based age verification, FSC fully supports the use of parental filtering on children’s devices. That’s why we use the “Restricted to Adults” (RTA) label on our sites and platforms. It was created by the nonprofit Association of Sites Advocating Child Protection (ASACP) to standardize a single, consistent, universally recognizable tag for adult material that triggers an automatic block by device-level parental control and filtering software.

13. Separately from the issue of age verification, the Act mandates that websites display what the Act calls “Sexual Materials Health Warnings.” The content of these warnings is antithetical to the beliefs of FSC and its members, who have pledged to advocate for the constitutional rights of adults to freely express themselves and to make their own decisions

regarding personal sexual behavior, and treat every member of the adult entertainment industry with respect and professionalism both on and off the set. FSC vigorously disputes the accuracy of the “Health Warnings” and finds them counterproductive and harmful to those who chose to exercise their First Amendment right to read, watch, or listen to erotic material, including consumers of FSC members’ erotic content.

14. I read and shared with FSC members the Jun. 16, 2023 article written by Carlie Kollath Wells for Axios New Orleans, titled *Millions of Louisiana resident targeted in massive cyberattack*, available at <https://www.axios.com/local/new-orleans/2023/06/16/louisiana-cyberattack-dmv-moveit>, which reports “[e]veryone with a Louisiana driver’s license or state ID likely had their personal information exposed in a massive cyberattack that’s punctured agencies across the country.” This hack is particularly alarming to FSC, as Louisiana recently passed an age-verification statute that works in conjunction with Louisiana’s digital driver’s license and age verification service LA Wallet. Given the risks of identity theft that come even with purportedly “more secure” ways to verify age like LA Wallet, FSC members are 1) concerned that unnecessarily requiring the entry of personal data to access legal erotic content on the internet increases the risk that adults’ sensitive personal data will be hacked, and 2) that knowing of this risk, potential customers will decline to access such material through any website that follows the age-verification mandates of the Act.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

Executed on August 1, 2023 in San Francisco, California.

Dated: August 1, 2023

/s/ Alison Boden  
Alison Boden